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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/412,013	10/04/1999	Jonas Lowell Steinman	10153-003	9120

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EXAMINER

ALVAREZ, RAQUEL

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/412,013

Applicant(s)

STEINMAN ET AL.

Examiner

Raquel Alvarez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-16, 19-34, 36-51 and 71-81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-16, 19-34, 36-51 and 71-81 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to communication filed on 2/28/2005.
1. Claim 2-16, 19-34, 36-51 and 71-81 are presented for examination.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2-16, 19-34, 36-51 and 71-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over article by Marc Gunther titled "The trouble with advertising" hereinafter Gunther.

With respect to claims 71, 76, 81, 16, 33, 36, 50, 74 and 79, Gunther teaches a sweepstake system (page 1, paragraph IV). A host system computer system hosting a webpage, wherein the webpage includes a plurality of links and each of the plurality of links has an associated point value associated with the one of the plurality of hyperlinks(i.e. An avid sports fan or anyone with nothing better to do can click on enough links to earn points)(page 1, paragraph IV); wherein the host computer system awards at least one point to a user as a result of the user clicking on the one of the plurality of hyperlinks and wherein the user is given a number of at least one entry in a sweepstakes based on a number of points the user has been awarded for clicking on the one of the plurality of hyperlinks (i.e. the user can exchange earned points for \$1 million cash prize entries to a sweepstakes).

With respect to the feature of at least two hyperlinks of the plurality of hyperlinks having different associated values. Gunther teaches getting points for clicking on links/hyperlinks. Gunther is silent as to the links having different or the same values associated with them and since Gunther also teaches the links are from different advertisers that gives incentives and compete for viewers (page 1, paragraphs IV, V and page 3) then it would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included associating different point values to the different advertisers links because such a modification allow different advertisers to offer a higher point value to users who click on the links to their websites and therefore increase their traffic flow.

Claims 2 and 19 further recite that the maximum number of points that the user can accumulate in one day is fixed. Official notice is taken that it is old and well known to control the number of points or awards a user can accumulate on a given day in order to provide a fair system. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the maximum number of points that the user can accumulate in one day to be fixed in order to obtain the above mentioned advantage.

Claims 3, 13, 20, 30, 37, 38, 47, further recite storing registration information pertaining to the user, such as point information relating to the user and using a transient cookie having a last location information to detect fraud. Official notice is taken that it is old and well known to store information in a database and to use cookie having location information in order to identify visitors/users and therefore detect fraud.

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It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included storing registration information pertaining to the user, such as point information relating to the user and using a transient cookie having a last location information in order to obtain the above mentioned advantage.

Claims 4-7, 9-12, 14-15, 21-24, 26-29, 31-32, 39-46, 48-49, 51, 72, 73, 75, 77-78 and 80 are different implementation choices that can be implemented without major changes to the system. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included implementing the system as recited by claims 4-7, 9-12, 14-15, 21-24, 26-29, 31-32, 38-46, 48-49, 51, 55-56, 64-66, 68-69 as designer's choices.

Claim 34 is similar in scope as claims 16, 33 rejected above and therefore rejected under similar rationale.

With respect to claims 8 and 25, Gunther do not specifically teach that one of the services is e-mail. E-mail is a common service offered in the on-line world. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included e-mail as one of the services offered.

Response to Arguments

3. Applicant argues the Examiner obviousness statement with regards to at least two hyperlinks of the plurality of hyperlinks having different associated values. The Examiner wants to point out that since Gunther teaches getting points for clicking on links/hyperlinks. Although, Gunther is silent as to the links having different or the same values associated with them, Gunther nevertheless teaches the links are from different

advertisers that gives incentives and compete for viewers (page 1, paragraphs IV, V and page 3) therefore, the Examiner concluded that one of ordinary skill in the art at the time of Applicant's invention would have included associating different point values to the different advertisers links because such a modification allow different advertisers to offer a higher point value to users who click on the links to their websites and therefore increase their traffic flow.

4. In addition, to support the obviousness statement, the Examiner is further citing patent no. 6,799,176 issued to Page which teaches assigning different values to different links (col. 8, lines 223-31) in order to direct attention (col. 1, lines 61-65 and col. 3, lines 7-19).

5. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, Gunther was cited for teaching assigning points for clicking on links/hyperlinks the links being from different advertisers that gives incentives and compete for viewers (page 1, paragraphs IV, V and page 3) and with respect to assigning the different point values for the links, the examiner relied on the common knowledge of one of ordinary skill in the art (see above), in addition the Examiner is citing a reference to support the obviousness statement (see above under item #4).

6. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that

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any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

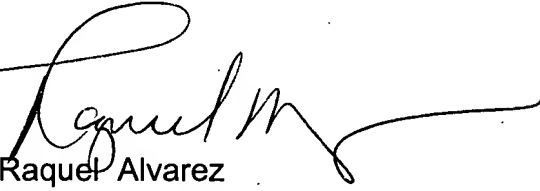
Point of contact

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Raquel Alvarez
Primary Examiner
Art Unit 3622

R.A.
5/3/05